

Stephen R. Buckingham
Matthew Savare
LOWENSTEIN SANDLER P.C.
65 Livingston Avenue
Roseland, NJ 07068
(973) 597-2500
Attorneys for Defendant Rykodisc, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ADELAIDE GAIL ZAPPA, individually and
as sole trustee of THE ZAPPA FAMILY
TRUST U/T/D NOVEMBER 15, 1990, a
California Revocable Trust,

Plaintiff,

v.

RYKODISC, INC.,

Defendant.

08-CV-00396 (WHP)

**NOTICE OF MOTION TO DISMISS AND
FOR A MORE DEFINITE STATEMENT
PURSUANT TO FED. R. CIV. P. 8(a),
12(b)(6), and 12(e)**

TO: Ira S. Sacks, Esq.
DREIER LLP
499 Park Avenue
New York, NY 10022

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the annexed Declaration of Matthew Savare with attached exhibit, the proposed form of Order, and all pleadings and proceedings heretofore had herein, the undersigned counsel for Defendant Rykodisc, Inc. move before this Court, before the Honorable William H. Pauley III, at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 2210, Courtroom 11D, New York, New York, at a date and time to be determined in accordance with Judge Pauley's rules, under Fed. R. Civ. P.

8(a) and 12(b)(6), for an Order dismissing with prejudice Plaintiff's Lanham Act claim (Seventh Claim), and, in the alternative, for an Order directing Plaintiff to provide a more definite statement for the Lanham Act claim pursuant to Fed. R. Civ. P. 12(e), and for an Order directing Plaintiff to provide a more definite statement for the breach of contract claim (Second Claim) pursuant to Fed. R. Civ. P. 12(e).

Respectfully submitted,

LOWENSTEIN SANDLER P.C.
65 Livingston Avenue
Roseland, New Jersey 07068
(973) 597-2500

Attorneys for Defendant Rykodisc, Inc.

By: //s// Stephen R. Buckingham
Stephen R. Buckingham
Matthew Savare

Dated June 17, 2008